

Amendments to the Specification:

Please amend the specification as follows:

~~PLECTRANTHUS PLANT NAMED 'CAPE ANGELS DARK PINK'~~ 'K011101'

Latin name of genus and species of the plant claimed:

Plectranthus hybridus

Variety denomination:

~~Cape Angels Dark Pink~~ K011101

BACKGROUND OF THE INVENTION

The present invention relates to a new and distinct cultivar of *Plectranthus* plant, botanically known as *Plectranthus hybridus-hybrida* (Family Lamiaceae), hereinafter referred to by the name '~~Cape Angels Dark Pink~~' 'K011101'.

The new *Plectranthus*, '~~Cape Angels Dark Pink~~' 'K011101', is a new and distinct mutation (sport), detected in a production batch of *Plectranthus hybridus-hybrida*, '~~Cape Angels Pink~~' 'P000306' (U.S. Plant Patent application filed concurrently herewith serial no. 10/716,659) by the Inventor, Gert Johannes Brits, in Kortegaard, Nørre Söby, Denmark. The objective of the breeding program in which the mutation was detected is to improve current blue market upon the Plectranthus varieties currently available, such as the cultivar 'Edelbau' (unpatented) by developing more compact growth habit, larger flowers and improved vigor. The new Plectranthus originated from a hybrid backcross by the Inventor between a proprietary selection of Plectranthus saccatus

named 'F1' (unpatented) and a proprietary selection of unnamed *Plectranthus hilliardiae* (unpatented). The new cultivar has been produced only by vegetative propagation (cuttings). The Inventor selected the new *Plectranthus* cultivar from the progeny of the above cross in 2001 on the basis of its compact growth habit, larger flowers and increased vigor.

Asexual reproduction of the new cultivar by terminal cuttings taken and propagated, has shown that each of the progenies exhibit characteristics identical to the original plant. These characteristics have been shown to come true to form through many generations of asexual propagation under commercial production conditions in Nr. Lyndelse, Fyn, Denmark. The present invention has been tested under lighted greenhouse conditions and for keeping quality in a consumer environment, but may differ in various aspects if grown under different conditions.

#### SUMMARY OF THE INVENTION

Plants of the cultivar '~~Cape Angels Dark Pink~~''K011101' have not been observed under all possible environmental conditions. The phenotype may vary somewhat with variations in environment such as temperature, light intensity, day length, and fertility level without, however, any variance in genotype.

The following traits have been repeatedly observed and are determined to be the unique characteristics of '~~Cape Angels Dark Pink~~''K011101'. These characteristics in combination distinguish '~~Cape Angels Dark Pink~~''K011101' as a new and distinct cultivar:

1. Large dark pink flowers;

2. Compact and freely branching plant habit;

3. Shorter production time, by one week as compared to similar varieties; and

4. Dense, colorful foliage.

Side-by-side comparisons between the instant plant and the "mother" cultivar '~~Cape Angels Pink~~' 'P000306' were conducted by the Inventor. Plants of '~~Cape Angels Dark Pink~~' 'K011101' differ from '~~Cape Angels Pink~~' 'P000306' in the following characteristics:

1. Plants of '~~Cape Angels Dark Pink~~' 'K011101' have longer, dark pink flowers than plants of '~~Cape Angels Pink~~' 'P000306'.

2. Plants of '~~Cape Angels Dark Pink~~' 'K011101' have better branching growth habit than plants of '~~Cape Angels Pink~~' 'P000306'.

#### BRIEF DESCRIPTION OF THE DRAWINGS

The accompanying photographic drawings illustrate the overall appearance of the new cultivar, showing the colors as true as it is reasonably possible to obtain in colored reproductions of this type. Colors in the photographs may differ slightly from the color values cited in the detailed botanical description, which more accurately describe the actual colors of '~~Cape Angels Dark Pink~~' 'K011101'.

The first photographic drawing shows a side perspective view of a typical flowering plant of '~~Cape Angels Dark Pink~~' K011101' as grown in 12 cm pots. The second photographic drawing shows a close-up view of typical flowering racemes of '~~Cape Angels Dark Pink~~' K011101'.

#### DETAILED BOTANICAL DESCRIPTION

In the following description, color references are made to The Royal Horticultural Society (RHS) Colour Chart, 4<sup>th</sup> edition. Plants were grown under greenhouse conditions. The plants described were between 12 and 15 weeks old after cutting, as grown in 12 cm pots.

Parentage: Sport Mutation-mutation discovered in a production batch of *Plectranthus hybridaus*, '~~Cape Angels Pink~~' P000306', a hybrid backcross between proprietary selection of *Plectranthus saccatus* named 'F1' (unpatented) and unnamed *Plectranthus hilliardiae* (unpatented).

Propagation:

Type cutting. Terminal vegetative cuttings.

Plant description:

Form: Perennial, herbaceous plant with upright, branched plant form.

Crop time: Flowering induced by short day treatment in 12 cm pots for 4 weeks under greenhouse conditions.

Plant height (soil level to top of plant plane): About 35 cm.

Plant spread: About 35 cm

Stem: Upright, stiff, square, branching from base, RHS 136B (dark green)

Vigor: Vigorous growth rate

Foliage description: Leaves single, ovate, serrate. Arrangement: opposite, decussate. Length: 8 cm. Width: 6 cm. Apex: Acuminate. Base: Cuneate. Texture: adaxial: rough (hispid), shiny; abaxial: smooth, velvety. Venation: ~~brochidodromous~~, prominent, dark purple-brown, N79 B. Color, ventral side: Young foliage, upper and lower surfaces: RHS 136 A, green. Mature foliage, upper and lower surfaces: RHS 136 A. Color, dorsal side: Young foliage, RHS 139 B. Mature foliage: RHS 138 B.

Petiole: 3 cm in length, 3 mm diameter; hispid texture, N77A (purple)

Flower description:

Flower arrangement: Raceme of panicles.

Flower shape: Irregular labiate, flat tubular with 4 lips of different size and shape.

Flower longevity on the plant: Longevity of individual flowers is highly dependent on temperature and light conditions; single flowers last 4 to 6 days under greenhouse conditions with full sunlight and temperatures not exceeding 20 C; 'K011101' may retain flowers up to 4 weeks with sufficient sunlight and temperatures not exceeding 20 C.

Number of flowers per inflorescence: 25-30; 80-90 per stem; up to 200 per plant;  
individual flower 25 mm vertical diameter, 9 mm horizontal diameter; 32 mm in flower depth (height).

Floral tube: Length 4 mm, width 2 mm.

Inflorescence size: Apical: 10 cm in length; Basal: 6 cm in length; Diameter: 8 cm.

Buds: Length: Up to 20 mm before antithesis; height: 5 mm; width: 1 mm; tubular with angular "head", RHS 59 A (red purple); base RHS 63 B, pink, to white, RHS 155B.

Petals: 5 fused to basal, flat tubular corolla. Lips spotted, velvety texture. Top lip (2 fused) to inverted cordate form, revolute upright, 12 mm. Bottom lip involute, almost cup-shaped, 7 mm. Wing lips small, rounded, 4 mm. Color: ventral side of lips: light purple, N82D; dark purple spots: N79A; throat: violet, RHS 84 D; dorsal side: light red-purple, RHS 63 C.

Sepals: Length 2 mm, width 1 mm; matte texture, puberulent

Calyx: 5 pointed lobes fused at base; veins: dark purple, N79A; ground tissue: green, RHS 136 C.

Pedicel: 6 mm length, 1 mm diameter, color RHS N79A

Peduncle: 6 mm length, 3 mm diameter, color N79A

Reproductive Organs:

Stamen: 4 monadelphous, lower part fused to corolla tube.

Anther: Kidney-shaped, .25 mm in length; purple, N79B

Filament: RHS 69D, light red-purple; 7 mm in length

Pollen: Plenty produced, RHS N79B

Pistil: 1., Lower part fused to corolla tube; free part 5 mm, curling upward with cleft stigma, purple, N79B

Ovary: N144A, yellow-green

Seed: 5 seeds per capsule; 1 mm length, 1 mm width. Immature seeds: RHS 150 B  
(light yellow-green)

Fragrance: None

Weather tolerance: Plants of the new *Plectranthus* have exhibited good tolerance to drought, rain and wind, low temperature resistant to 5°C.

**Amendments to the Abstract:**

**Abstract of the Disclosure**

A new and distinct cultivar of *Plectranthus* plant named '~~Cape Angels Dark~~  
~~Pink~~'K011101', characterized by having more compact, freely branching plant habit;  
shorter production time; vigorous growth habit; large dark pink flowers; and dense  
colorful foliage.

**Amendments to the Claim:**

I/We Claim:

1. A new and distinct cultivar of *Plectranthus* plant named '~~Cape Angels Dark~~  
~~Pink~~'K011101', as illustrated and described herein.

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the reasons which follow.

The Examiner objects to the disclosure under 37 CFR § 1.163(a) and rejects the claim under 35 U.S.C. 112, first and second paragraphs, as being unsupported by a clear and complete botanical description which distinguishes the cultivar from related known varieties. Favorable reconsideration and allowance of the application is requested in view of the foregoing amendments and the remarks which follow.

In order to expedite the Examiner's review of this response, applicant will address each of the Examiner's objections in the order they were discussed in the Official Action.

A. The specification has been amended at page 1, lines 3, 8 and 11, and at page 4, line 15, to replace the recitation "hybridus" with --hybrida--.

B. The specification has been amended at page 1, line 12, to import the application serial no. for 'Cape Angels Pink', now --'P000306'-- as amended.

C. The specification has been amended at page 1, line 14 – 16, to replace the recitation: "The objective of the breeding program in which the mutation was detected is to improve current blue market cultivar 'Edelbau' by developing more compact growth habit, larger flowers and improved vigor." with the recitation -- The objective of the breeding program in which the mutation was detected is to improve upon the *Plectranthus* varieties currently available, such as the cultivar 'Edelbau' (unpatented) by developing a *Plectranthus* variety with more compact growth habit, larger flowers and improved vigor."

D. The specification has been amended at page 1, line 15, to clarify that the variety 'Edelbau' is unpatented in the U.S.

E. The specification has been amended at page 1, 2<sup>nd</sup> full paragraph, and at page 4, under the subheading "Parentage", to clarify that this variety is a sport mutation of 'Cape Angel Pink', now --'P000306'-- as amended.

F. The specification has been amended at page 1, 2<sup>nd</sup> full paragraph, to delete the sentence beginning on line 16 to line 19. This sentence was in reference to the grand-parents, parents of the variety 'Cape Angel Pink', now --'P000306'-- as amended, as described at page 4, under the subheading "Parentage".

G. The specification has been amended at page 2, lines 2 – 4, to correct reference to the "cross".

H. The specification has been amended at page 3, line 6, to quantify the shorter production time.

I. The new variety is distinguished from another Plectranthus variety, 'Cape Angels Pink' (now --'P000306'-- as amended), on page 3 of the specification.

J. The specification has been amended at page 5, line 15, to delete the term "brochidodromus".

K. specification has been amended at page 5, line 19, to provide the average diameter of the petiole.

L. The specification has been amended at page 6, lines 3 – 4 to quantify the lastingness of the bloom.

M. The specification has been amended at page 6, line 9, to provide the average length of the inflorescence.

N. The specification has been amended at page 6, line 9, to provide the average size of the individual flower.

O. The specification has been amended at page 6, line 10, to provide the average size of the floral tube.

P. The specification has been amended at page 6, line 13, to provide the RHS designation for the "white" color of the bud.

Q. The specification has been amended at page 6, between lines 19 and 20, to import information regarding the sepals.

R. The specification has been amended at page 7, before line 1, to import information regarding the pedicel and peduncle.

S. Additional information with regard to the stamen is unavailable. The specification has been amended at page 7, to import additional information relative to the stamen and filament.

T. The specification has been amended at page 7, to set forth the pistil number, and import information relative to the pollen.

U. The specification has been amended at page 7, to import a description of the seed.

V. The specification has been amended at page 7, to import the degree symbol.

Lastly, the specification has been amended throughout to change the varietal denomination of the instant plant from 'Cape Angels Dark Pink' to --'K011101'--.

Due to the number of changes and/or corrections, Applicants hereby file a substitute specification containing no new matter. The Examiner is authorized to cancel the specification as filed in favor of the attached substitute specification.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should an improper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

Atty. Dkt. No. 034896-0107  
Serial No. 10/716,594

Respectfully submitted,

Date: January 21, 2004

FOLEY & LARDNER LLP

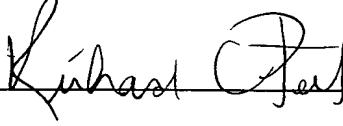
Customer Number: 22428

**22428**

PATENT TRADEMARK OFFICE

Telephone: (202) 672-5483

Facsimile: (202) 672-5399

By 

Richard C. Peet  
Attorney for Applicant  
Registration No. 35,792